IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9896 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUMANSINH ALIAS GAMUDO S/O JAYSINH ALIAS RAGHUJI

Versus

DISTRICT MAGISTRATE

Appearance:

MS DR KACHHAVAH for Petitioner

MR HH PATEL for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 26/02/2001

ORAL JUDGEMENT

#. Challenge has been made by this petition under Article 226 of the Constitution to the order of the District Magistrate, Banaskantha at Palanpur, dated 25-8-2000 under which the petitioner was detained as a bootlegger.

#. Reply to the special civil application has not been filed.

#. One of the contentions has been raised by the learned counsel for the petitioner that the statement of witnesses named in para-12 of the petition were not supplied to the detenu and as a result of which he has been deprived of his valuable right of making effective representation as guaranteed to him under Article 22 (5) of the Constitution of India. This statement stand uncontroverted and as a result of which the same has to be accepted.

#. Otherwise also, learned counsel for the respondents has failed to point out from the record that the copy of statements of witnesses recorded in the complaint referred in para-12 have been furnished to the detenu. This is a case where by nonsupply of the copies of documents mentioned in para-12 of the petition, the petitioner has been deprived of his valuable right of making effective representation under Article 22 (5) of the Constitution of India and only on this ground, this petition deserves acceptance and accordingly the same is allowed.

#. In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 25-8-2000 is quashed and set aside. The petitioner Gumansinh alias Gamudo, S/o. Jaysinh alias Raghuji Rajput Darbar, the detenu, at present in Porbandar Special Jail, Porbandar be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

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